

October 19, 1999

PUBLIC UTILITIES COMMISSION
Amendments to Chapter 321

NOTICE OF RULEMAKING

I. SUMMARY

Through this Notice, we initiate a rulemaking to amend certain portions of Chapter 321, the rule that governs load obligations and settlement calculations for competitive electricity providers (CEPs). The proposed amendments modify terminology to be consistent with other rules, clarify the intent of the original profiling methodology language, add provisions regarding northern Maine, specify how CEPs will be identified for settlement purposes, add cross-references to other rules, and change the annual reporting date.

II. BACKGROUND

By order dated October 13, 1998, the Commission adopted Chapter 321 of its rules. This rule governs the process, methods and terms by which transmission and distribution (T&D) utilities will develop hourly load estimates and monthly energy reconciliations of CEPs' load obligations. The rule also contains load profiling and individual customer metering requirements. The proposed amendments to the rule result from ongoing efforts to implement electric industry restructuring. These efforts have revealed areas of the current rule in which amendments are either necessary or desirable. The amendments do not substantively change the procedures or intended effects of the current rule. We discuss below each of the proposed amendments to the rule.

III. DISCUSSION OF PROPOSED AMENDMENTS

A. Definitions (Section 1)

The proposed amended rule contains minor changes to the definitions of "aggregator" and "broker" to be consistent with statutory language and terminology used in other rules. We have also added definitions of "ISO-NE Control Area," "Maritimes Control Area," and "Northern Maine ISA." The inclusion of these definitions results from adding more specific language on the settlement process in northern Maine. We discuss this aspect of the proposed rule in section III (E), below.

B. Obligations (Section 2)

We have simplified the language in section 2.B to clarify that it is only aggregators and brokers that are exempt from the rule's provisions.

C. Telemetry (Section 3)

We propose to change the name and description of the class of customers that are required to have telemeters for settlement purposes. We propose to make this change to be consistent with the terminology used in our standard offer rule, Chapter 301, to avoid the confusion we have observed among market participants to date. The current rule refers to customers with loads above those of the “Large Commercial and Industrial Profile Group.” This term is described in section 4.A.2 of the current rule. The description of this customer group is essentially the same as the standard offer customer class referred to as “Medium Non-Residential” in Chapter 301. Similarly, the group of customers referred to as those with loads in excess of the large commercial and industrial group (in the current Chapter 321) is essentially the same as the “large non-residential” standard offer class in Chapter 301. Accordingly, we have changed the name of the customer group in section 3.A to “Large Non-Residential” to be consistent with Chapter 301. We have also changed the description of the customer group to that contained in Chapter 301. This description is more straightforward and easier to apply, because it identifies customers by reference to existing utility customer class definitions. Finally, we have added language to make it clear that customers above specified maximum demand levels must be telemetered for settlement purposes.

D. Load profiles (Section 4)

1. Customer Groups

For the reasons discussed above, we have changed the customer group names and descriptions contained in section 4.A to be consistent with those of Chapter 301. Specifically, we have changed “Small Commercial and Industrial” to “Small Non-Residential,” and “Large Commercial and Industrial” to “Medium Non-Residential.” In addition, we have clarified the treatment of deemed and telemetered loads in the residential group.

We have also made a minor revision to section 4.A.1 to improve consistency with section 5.A.1 and to clarify that all telemetered customers will be settled on their telemetered load data.

2. Profiling Methodology

Section 4.B. of the rule provides for the statistical sampling methodology for load profiles. For greater clarity, we have added references to the ISO-NE and Maritimes control areas to section 4.B.1.a of the rule.

After the adoption of the current rule, Central Maine Power Company (CMP) requested the opinion of the General Counsel as to the interpretation of section 4.B.1.b and c. CMP expressed the concern that the language of the rule could be read to require 100% accuracy in the peak hours of all months and in all hours

of the year. The General Counsel responded that these provisions were intended only to encourage consideration of the referenced variables, if reasonably possible. Opinion of General Counsel, 99-1 (Jan. 21, 1999). We have modified these provisions in the proposed amended rule to clarify the intent.

E. Daily Estimation of Hourly Loads (Section 5)

As part of the settlement process, utilities must report hourly loads to the regional bulk power administrator. At the time the current rule was adopted, no entity existed to perform the retail settlement process in northern Maine. For that reason, the current rule states that utilities in northern Maine shall report the data in a manner to be determined by the Commission. Subsequently, the Northern Maine ISA was created to administer the settlement process in northern Maine. Accordingly, we have revised the rule to specify that the data be reported to the Northern Maine ISA.

We have also added a provision to section 5 of the proposed amended rule that specifies that all reporting to the system administrators shall be by Load Asset I.D. Number. The current rule contemplates that reporting be done by each individual CEP. A problem with this approach is that a CEP would have to be a NEPOOL member and recognized by the ISO-NE as a load serving entity in order to have a settlement account. However, our licensing rule explicitly states that a CEP does not have to be a NEPOOL member; it could satisfy its transactional requirements through a contractual relationship with a NEPOOL member. Ch.305, § 2 (B)(2). Moreover, during discussions in Commission-initiated working groups (i.e. utility/CEP contracts Docket No. 99-170 and Electronic Business Transactions Docket No. 98-522), potential suppliers indicated that they may want more than one settlement account. The ISO-NE requires information to be provided to it by Load Asset I.D and it will issue several numbers to individual entities. Thus, a NEPOOL member could use its multiple accounts to differentiate between its own products, or to contractually assign one or more of its I.D. numbers to non-NEPOOL members so that a CEP would not have to be a NEPOOL member to participate in Maine's market. It was agreed among the members of the working groups that settlements should be differentiated by Load Asset I.D. Number. Accordingly, we have modified the rule in this respect.

F. Monthly Settlement (Section 6)

For the reasons discussed in section III (D), above, we have added to the monthly settlement provision references to the Northern Maine ISA and a requirement that data be provided to the bulk power administrators by Load Asset I.D. Number.

G. Information Access (Section 7)

This section of the rule provides for the transfer of customer data to CEPs. The current rule specifies that CEPs must get customer authorization to obtain data pursuant to 35-A M.R.S.A. § 3205(3)(I). As explained in our recent Notice of Rulemaking containing proposed amendments to Chapter 322 of our rules, the

Legislature repealed 35-A M.R.S.A. § 3205(3)(I) during its last session and replaced it with a provision added to the licensing section of the restructuring statute. See Notice of Rulemaking, Docket No. 99-659 at 4-6 (Sept. 28, 1999). In our Chapter 322 rulemaking, we will implement the statutory provision on customer authorization of data transfers. In this proposed rule, we have deleted the reference to 35-A M.R.S.A. § 3205(3)(I) and have added cross-references to Chapter 322.

H. Data Transfer (Section 8)

This section requires data to be transferred among utilities and CEPs according to Commission-adopted Electronic Business Transaction (EBT) Standards. After the initial adoption of this rule, the Commission opened a rulemaking to adopt EBT standards (Chapter 323). We have, thus, added a cross-reference to Chapter 323 in this section of Chapter 321. We have also cross-referenced Chapter 322's requirement that each entity be responsible for the cost of transferring data.

I. Reporting (Section 9)

This section of the rule contains utility reporting requirements. The current rule requires utilities to file annual reports on March 1 of each year. The proposed rule provides for a June 1 filing date to coincide with the standard offer bid process time frame.

IV. RULEMAKING PROCEDURES

This rulemaking will be conducted according to the procedures set forth in 5 M.R.S.A. §§ 8051-8058. Written comments on the proposed Rule may be filed with the Administrative Director until December 3, 1999. Written comments should refer to the docket number of this proceeding, Docket No. 99-721, and sent to the Administrative Director, Public Utilities Commission, 242 State Street, 18 State House Station, Augusta, Maine 04333-0018. No public hearing on this matter is scheduled, but one will be held if requested by any five interested persons. Persons wishing to request a public hearing on this rule must notify the Administrative Director in writing by November 19, 1999.

In accordance with 5 M.R.S.A. § 8057-A(1), the fiscal impact of the proposed Rule is expected to be minimal. The Commission invites all interested parties to comment on the fiscal impact and all other implications of the proposed rule.

The Administrative Director shall send copies of this Order and the attached rule to:

1. All electric utilities in the State;
2. All persons who have filed with the Commission within the past year a written request for Notice of Rulemaking;

3. All persons listed on the service list or filed comments in the Rulemaking, *Load Obligation and Settlement Calculations for Competitive Electricity Providers* (Chapter 321) Docket No. 98-496;

4. All persons listed on the service list or who filed comments in the Inquiry, *Inquiry into the Energy and Load Profiling and Settlement Functions for Transmission and Distribution Utilities in a Restructured Electric Industry*, Docket No. 97-861;

5. The Secretary of State for publication in accordance with 5 M.R.S.A. § 8053(5); and

6. Executive Director of the Legislative Council, 115 State House Station, Augusta, Maine 04333-0115 (20 copies).

Accordingly, we

ORDER

That the Administrative Director send copies of this Notice of Rulemaking and attached proposed Rule to all persons listed above and compile a service list of all such persons and any persons submitting written comments on the proposed Rule.

Dated at Augusta, Maine, this 19th day of October, 1999.

BY ORDER OF THE COMMISSION

Dennis L. Keschl
Administrative Director

COMMISSIONERS VOTING FOR: Nugent
 Diamond

COMMISSIONER ABSENT: Welch